



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 16, 2005

Ms. Luz E. Sandoval Walker  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9<sup>th</sup> Floor  
El Paso, TX 79901

OR2005-02241

Dear Ms. Sandoval Walker:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 220414.

The El Paso Police Department (the "department") received a request for 14 categories of information related to a specific traffic citation. You state that you are releasing most of the information, but you claim that a portion of the remaining information is excepted from disclosure under sections 552.117 and 552.130 of the Government Code. You additionally argue that a responsive radar manual is protected by copyright, and therefore, a copy of this manual may not be provided to the requestor. We have considered the exceptions you claim and reviewed the submitted information.

First, you indicate that the department intends to withhold the social security number of the peace officer at issue pursuant to the previous determination of this office in Open Records Decision No. 670 (2001). In that decision, we determined that a governmental body may withhold the home address, home telephone number, personal cellular phone number, personal pager number, social security number, and information that reveals whether the individual has family members, of any individual who meets the definition of "peace officer" set forth in article 2.12 of the Texas Code of Criminal Procedure or "security officer" in section 51.212 of the Texas Education Code, without the necessity of requesting an attorney general decision as to the applicability of the section 552.117(a)(2) exception. *See* Open Records Decision No. 670 (2001); *see also* Open Records Decision No. 673 at 7-8 (2001)

(listing elements of second type of previous determination under section 552.301(a)). We therefore agree the department may withhold the officer's social security number from disclosure pursuant to the previous determination in Open Records Decision No. 670.

Next, we note that you have redacted the Texas motor vehicle record information contained in the submitted documents. You do not assert, nor has our review of our records indicated, that you have been granted a previous determination to withhold any such information without seeking a ruling from this office. Because we can discern the information that has been redacted, being deprived of this information does not inhibit our ability to make a ruling *in this instance*. Nevertheless, be advised that a failure to provide this office with requested information generally deprives us of the ability to determine whether information may be withheld and leaves this office with no alternative other than ordering that the redacted information be released. See Gov't Code § 552.301(e)(1)(D) (governmental body must provide this office with copy of "specific information requested").

Section 552.130 of the Government Code provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. You must withhold the Texas motor vehicle record information you have marked under section 552.130.

Finally, although you raise no exceptions to disclosure for the requested radar operations manual, you state that you will not be making copies of the requested manual to provide to the requestor because it is protected by copyright law. You will, however, allow the requestor to review the manual. A custodian of public records must comply with copyright law and is not required to furnish copies of records that are copyrighted. Attorney General Opinion JM-672 (1987). However, a governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.* If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. See Open Records Decision No. 550 (1990).

In summary, the police officer's social security number may be withheld pursuant to the previous determination in Open Records Decision No. 670. The Texas motor vehicle record

information that you have marked must be withheld under section 552.130 of the Government Code. The radar operations manual must be released to the requestor; however, in releasing information that is protected by copyright, the department must comply with copyright law.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this

ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth A. Stephens", written in a cursive style.

Elizabeth A. Stephens  
Assistant Attorney General  
Open Records Division

EAS/krl

Ref: ID#220414

Enc. Submitted documents

c: Mr. James D. Lucero  
1242 Barker Road  
Las Cruces, NM 88005  
(w/o enclosures)